

REMARKS

In the Office Action, Claims 1-39 were examined and are rejected. In response to the Office Action, June 14, 2006, Claims 1, 2, 4-6, 9, 11, 12, 14-16, 20, 22, 27, 31, 35 and 37-39 are amended, Claim 36 is cancelled, and Claim 40 is added. Applicant respectfully requests reconsideration and withdrawal of the rejection of pending Claims 1-35, 37-39 and in view of the amendment to the claims and the following remarks.

I. Objection to the Claims

The Examiner has objected to Claims 4-6, 9, 14, 16, 20, 22 and 27 for minor informalities. Claims 4-6, 9, 14, 16, 20, 22 and 27 have been amended in accordance with the Examiner's request. Consequently, Applicant request that the Examiner withdraw the objection to Claims 4-6, 9, 14, 16, 20, 22 and 27.

II. Objections to the Specification

The Examiner has objected to the specification for failing to include a "Summary of the Invention." However, Applicant would like to kindly point out that both the M.P.E.P. and 37 C.F.R. §1.73 do not require the presence of a "Summary of the Invention" in a patent application. They merely indicate where in the application the "Summary of the Invention" should be placed if Applicant were to elect to include one. In particular, 37 C.F.R. §1.73 only states that "[a] brief summary of the invention . . . should precede the detailed description." 37 C.F.R. §1.73 does not state "must" or "shall." Accordingly, Applicant has elected not to include a "Summary of the Invention" as this is within the discretion of Applicant.

Accordingly, Applicant respectfully request that the Examiner reconsider and withdraw the objection to the specification.

III. Double Patenting Rejection

The Examiner rejects Applicant's invention under the provisional obviousness-type double patenting rejection as not patentably distinct from the claimed inventions of co-pending

U.S. Patent Application No. 10/092,401, although the conflicting claims are not identical. Applicant holds in abeyance this rejection until such time as the claims on which the rejection is premised are granted.

IV. Claims Rejected Under 35 U.S.C. §102

The Examiner has rejected Claims 1-3, 5, 7, 8, 11-13, 15-18, 21-24, 26-31 and 34-35 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,697,638 issued to Larsson et al. ("Larsson"). Applicant respectfully traverses this rejection.

Regarding Claims 1 and 11, Claims 1 and 11 are amended to recite the following claim features which are neither disclosed, taught, or suggested by Larsson:

detecting at least two audio sources within communication range of a wireless device;

establishing an audio link with each audio source device of the at least two detected audio sources;

providing, via at least two device audio channels, audio streams to a user of the wireless device, wherein the audio streams are from the audio source devices with an established audio link to the wireless device. (Emphasis added.)

In contrast to the above-cited features of amended Claims 1 and 11, Larsson discloses an intelligent, portable phone with dual mode operation for automobile use, to provide a system for operating a cellular phone using Bluetooth with a car kit. (See Abstract.) As disclosed by Larsson:

A "car kit" is often an interface between the automobile and the telephone. The car kit can act as a part of the hand-held cellular phone. The hand-held phone plugs into the car kit, and uses the structure of the car kit for transmission and reception, e.g., to an external antenna. The car kit can also have a hands-free kit that allows the user to talk on the telephone without using their hands. (Emphasis added.)

Unfortunately, as indicated by Larsson, car kits can generally only be used when a cellular phone is present. Hence, if the user forgets to bring their phones into the car, the car kit is render useless. (See Col. 1, Lines 33-35.) To overcome such problems, Larsson teaches:

...a new telephone interface device adapted to be mounted in a vehicle. The device can interface with a portable telephone, and take on the character of the portable telephone. (Emphasis added.)

According to the Examiner, the above-recited features of Claims 1 and 11, prior to amendment, are disclosed by Larsson at Col. 3, Lines 26-31, 36-40 and Figure 2 (see Page 7, Paragraphs 1-3 of the Office Action mailed June 14, 2006.) Applicant respectfully disagrees with the Examiner.

The above passages as referred to by the Examiner, describe Fig 3 of Larsson, which illustrates the basic operation of phone and vehicle mounted part (“car kit”) once the phone 100 and the vehicle mounted part 160 come within range of each other. As illustrated in Step 310 of Fig 3, car kit 160 and phone 100 discover each other using a Bluetooth scheme. As illustrated at Step 330, the car kit and phone, in communication with one another, carry out communication with the cellular system. As disclosed by Larsson, in a preferred embodiment, the communication with the cellular system relies on car kit 160 to perform transceiver operations for communication with the cellular network. (See Col. 3, Lines 27-40.)

As indicated by the above-cited passages of Larsson, the inclusion of a low power transceiver 120, within a portable phone 100, as shown in Fig 1 of Larsson, enables communication between portable phone 100 and car mounted phone part 160, such that car mounted phone part 160 enables communication with a cellular system by performing transceiver operations. Hence, Applicant respectfully submits that the disclosure in Larsson is expressly limited to the communication of phone 100, via a car kit 160, to a cellular system.

As mandated by case law, “Anticipation requires the presences in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claims.” Lindermann Maschinenfabrik v. American Hoist & Derrick (“Lindermann”), 730 F.2d 452, 1458 (Fed. Cir. 1994) (emphasis added). Additionally, each and every element of the claim must be exactly disclosed in the anticipatory reference. Titanium Metals Corp. of American v. Banner (“Banner Titanium”), 778 F.2d 775, 777 (Fed. Cir. 1985).

Here, the phone 100 does not provide an audio link with both car part 160 and the cellular system. As disclosed by Larsson, portable phone 160 provides a single audio link with car part 160 and car part 160 provides a single audio link to the cellular system; Larsson explicitly requires that communication with the cellular requires that transceiver operations are performed by the car kit 160. (See Col. 3, Lines 38-40.)

Regarding the Bluetooth piconet 200, as shown in Fig 2 of Larsson, piconet 200 is merely provided to illustrate basic Bluetooth operations and describe the concepts of masters-and-slaves, as provided by the Bluetooth protocol, as well as the Bluetooth 480-bit address, which enables the various modes of establishing communication between car kit 160 and portable phone 100. Hence, Applicant respectfully submits that Larsson fails to disclose, teach or suggest providing, via at least two device audio channels, audio streams to a user of a wireless device, wherein the audio streams are from the audio source devices within an established audio link to the wireless device, as recited by amended Claims 1 and 11.

Consequently, Applicant respectfully submit that the Examiner is prohibits from relying on Larsson as a anticipatory reference since the Examiner fails to illustrate that Larsson exactly discloses each and every element recited by amended Claims 1 and 11. Banner Titanium, supra. Therefore, Applicant respectfully submit that Applicant's amendment to Claims 1 and 11 prohibits the Examiner from establishing a prima facie case of anticipation of amended Claims 1 and 11 since the Examiner fails to illustrate that the single prior art reference disclosure of Larsson includes the presences of each and every element recited by amended Claims 1 and 11. Lindermann, supra.

Accordingly, Applicant respectfully submits that Claims 1 and 11, as amended, are patentable over Larsson as well as references of record. Hence, Applicant respectfully request that the Examiner reconsider and withdraw the §102(e) rejection of Claims 1 and 11.

Regarding Claims 2-10 and 12-20, Claims 2-10 and 12-20 base on dependency from Claim 1 and 11, respectfully, are also patentable over Larsson as well as references of record. Therefore, Applicant respectfully request that the Examiner reconsider and withdraw the §102(e) rejection of Claims 2-10 and 12-20.

Regarding Claims 21 and 26, Claims 21 and 26 recite the following claim features which are neither disclosed, taught or suggested by Larsson:

receiving, by an audio source device, a request from a wireless device for a combined audio link;

generating an audio link with at least one requested audio source device;
combining the generated audio link with an audio link between the audio source device and the wireless device, thereby forming the combined audio link; and

providing, via the combined audio link, combined audio streams from the audio source device and the at least one requested audio source device, to the wireless device. (Emphasis added.)

For these reasons indicated, Applicant respectfully submits that the disclosure in Larsson is expressly limited to the establishment of an audio link between a portable phone 100 and a carkit 160 as shown in Fig 1 of Larsson, as well as the communication with a cellular system by portable phone 100 via a carkit 160, which provides transceiver operations for communication with the cellular system. (See Col. 3, Lines 24-40.) Hence, Applicant respectfully submit that Larsson teaches the establishment of a single audio link between portable phone 100 and car kit 160 and an additional link between car kit 160 and a cellular system.

Conversely, Claims 21 and 26 recite the generation of an audio link with a requested audio source device in response to requests for combined audio link. As recited further by Claims 21 and 26, combined audio streams are provided, via a combined audio link from an audio source device and a requested audio source device, to a wireless device which issues the request for a combined audio link.

According to the Examiner, the above recited features of Claims 21 and 26 are disclosed by the Bluetooth piconet 200, as shown in Fig 2 of Larsson. However, for the reasons indicated above, the piconet 200, as shown in Fig 2 of Larsson, is merely provided to illustrate the concepts of masters-and-slaves taught by the Bluetooth protocol, as well as the various authentication means based on, for example, the 48-bit Bluetooth addresses used by the Bluetooth protocol. (See Col. 3, Lines 1-20.)

Therefore, Applicant respectfully submits that the Examiner is prohibited from relying on Larsson as an anticipatory reference since Larsson fails to exactly disclose each and every element recited by amended Claims 21 and 26. Banner Titanium, supra. Consequently, Applicant respectfully submits that the Examiner fails to establish a prima facie case of anticipation of Claims 21 and 26 since the Examiner fails to illustrate that the single prior art reference disclosure of Larsson includes the presences of each and every element recited by amended Claims 21 and 26. Lindermann, supra.

Accordingly, Applicant respectfully submits that Claims 21 and 26 are patentable over Larsson as well as references of record. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §102(e) rejection of Claims 21 and 26.

Regarding Claims 22-25 and 27-30, Claims 22-25 and 27-30, based on their dependency from Claims 21 and 26, respectfully, are also patentable over Larsson as well as references of record. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §102(e) rejection of Claims 22-25 and 27-30.

Regarding Claim 31, Claim 31 is amended to recite the following claim feature which is neither disclosed, taught or suggested by Larsson:

a channel selection unit to receive a selection from the user for one or more of the at least two generated audio channels, and to provide the selected channels to the user via the communication interface and to switch between the at least two audio channels in response to a user request. (Emphasis added.)

Applicant respectfully submits that the above recited feature of amended Claim 31 is analogous to the previously recited feature of amended Claims 1 and 11. Accordingly, Applicant's argument provided above with regard to the §102(e) rejection of Claims 1 and 11 equally apply to the Examiner's §102(e) rejection of Claim 31 as anticipated by Larsson.

Consequently, for the reasons provided above, Applicant respectfully submits that Applicant's amendment to Claim 31 prohibits the Examiner from establishing a prima facie case of anticipation of amended Claim 31 since the Examiner cannot illustrate that the single prior art reference disclosure of Larsson includes the presences of each and every element recited by amended Claim 31. Lindermann, supra.

Therefore, Applicant respectfully submits that Claim 31 as amended is patentable over Larsson as well as references of record. Consequently, Applicant respectfully request that the Examiner reconsider and withdraw the §102(e) rejection of Claim 31 as well as dependent Claims 32-34.

Regarding Claim 35, Claim 35 is amended to incorporate the features of cancelled Claim 36. Accordingly in view of Applicant's amendment to Claim 35 to incorporate the features of cancelled Claim 36, Applicant respectfully submits that amended Claim 35 recites analogous

claim features to Claim 31. Hence, Applicant's argument provided above with regard to the §102(e) rejection of Claims 31 equally apply to the Examiner's §102(e) rejection of Claim 35 as anticipated by Larsson.

Consequently, for the reasons provided above, Applicant respectfully submits that Claim 35, as amended, is patentable over Larsson as well as references of record. Therefore, Applicant respectfully request that the Examiner reconsider and withdraw the §102(e) rejection of Claim 35 as well as depending Claims 37-39.

CONCLUSION

In view of the foregoing, it is submitted that Claims 1-35, 37-39 patentable define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: September 14, 2006

By: _____

Joseph Lutz, Reg. No. 43,765

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage on the date below, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Annie McNally
Annie McNally

09/14/2006
Date